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11 Attorneys for Representative Plaintiffs,
12 the Plaintiff Class, and Aggrieved Employees

13 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **IN AND FOR THE COUNTY OF STANISLAUS**

15 MIRIAM CASTRO and EFRAIN
16 CALDERON, individually, and on behalf
17 of all others similarly situated,

18 Plaintiffs,

19 vs.

20 CENTRAL VALLEY SPECIALTY
21 HOSPITAL, INC., AMERICAN
22 ADVANCED MANAGEMENT GROUP,
23 INC., AMERICAN ADVANCED
24 MANAGEMENT, INC., and DOES 1
25 through 100, inclusive,

26 Defendants.

Case No. CV-20-001370

CLASS ACTION

**FIRST AMENDED COMPLAINT FOR
DAMAGES, INJUNCTIVE RELIEF AND
RESTITUTION**

[JURY TRIAL DEMANDED]

27 Representative Plaintiffs allege as follows:

28 **INTRODUCTION**

1. This is a class action seeking unpaid compensation for wages, meal and/or rest period violations, interest thereon, liquidated damages and other penalties, injunctive and other equitable relief, and reasonable attorneys' fees and costs under, *inter alia*, California Labor Code §§ 200-204, 210, 218, *et seq.*, 226, *et seq.*, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, *et seq.*,

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Superior Court of California
County of Stanislaus
Clerk of the Court
By: Narely Garcia, Deputy

1 1197, 1197.1, 1198, California Business and Professions Code §§ 17200, *et seq.* and California
2 Code of Civil Procedure § 1021.5.

3 2. Plaintiffs Miriam Castro and Efrain Calderon (“Representative Plaintiffs” or
4 “Plaintiffs”) bring this action on behalf of themselves and all other persons similarly situated
5 (“Class Members” and/or the “Plaintiff Class”) who are or have been employed by defendants
6 Central Valley Specialty Hospital, Inc., American Advanced Management Group, Inc., American
7 Advanced Management, Inc., and/or Does 1 through 100, inclusive (collectively “Defendants”) in
8 various positions within the State of California within the applicable class period.

9 3. The relevant class period begins on February 28, 2016 and extends through trial,
10 based upon the allegation that the violations of California’s wage and hour laws, as described more
11 fully below, have been and are ongoing throughout that time.

12 4. During the class period, Defendants have had a consistent policy of (1) unlawfully
13 denying Representative Plaintiffs and Class Members statutorily-mandated meal and rest periods,
14 (2) willfully failing to provide Representative Plaintiffs and Class Members with accurate
15 semimonthly itemized wage statements reflecting the total number of hours each worked, the
16 applicable deductions, and the applicable hourly rates in effect during the pay period, and (3)
17 willfully failing to pay compensation in a prompt and timely manner to Representative Plaintiffs
18 and those Class Members whose employment with Defendants has terminated.

19 5. Defendants operate a hospital/advanced care facility within California for which
20 Representative Plaintiffs worked in various positions. The Representative Plaintiffs are informed
21 and believe and, on that basis, allege that, within the class period, Defendants employed scores, if
22 not hundreds, of individuals in California in various employment positions which did not, and
23 currently do not, meet any known test for exemption from the payment of overtime wages and/or
24 the entitlement to meal or rest periods.

25 6. Despite actual knowledge of these facts and legal mandates, Defendants have and
26 continue to enjoy an advantage over their competition and a resultant disadvantage to their workers
27 by electing not to pay all wages due (including missed meal and rest period compensation) and/or
28 all penalties due (including “waiting time” penalties) to Class Members.

8. Despite Defendants' knowledge of Class Members' entitlement to wages for all hours worked and meal and/or rest periods for all applicable work periods, Defendants failed to provide same to Class Members, in violation of California state statutes, the applicable California Industrial Welfare Commission Wage Order, and Title 8 of the California Code of Regulations. This action is brought to redress and end this prolonged pattern of unlawful conduct once and for all.

12 9. This Court has jurisdiction over the Class Members' claims for unpaid wages and/or penalties
13 under, *inter alia*, the applicable Industrial Welfare Commission Wage Order, Title 8 of the
14 California Code of Regulations, Labor Code §§ 201-204, 226, 226.7, 512, 1174, and/or the
15 California Code of Civil Procedure § 1021.5.

16 10. This Court also has jurisdiction over the claims herein for injunctive relief and
17 restitution of ill-gotten benefits arising from Defendants' unfair and/or fraudulent business
18 practices under California Business & Professions Code § 17200, *et seq.*

19 11. Venue as to Defendants is proper in this judicial district pursuant to California Code
20 of Civil Procedure § 395(a). Defendants provided the aforementioned services within this County
21 where Plaintiffs and numerous Class Members worked, transacts business, has agents, and is
22 otherwise within this Court's jurisdiction for purposes of service of process. The unlawful acts
23 alleged herein have had a direct effect on Representative Plaintiffs and those similarly situated
24 within the State of California and within this County.

27 12. Representative Plaintiff Miriam Castro is a natural person who was employed by
28 Defendants as a pharmacy technician during the class period.

DEFENDANTS

15. Representative Plaintiffs are informed and believe and, based thereon, allege that, at all times herein relevant, Defendants (including the Doe defendants) did business within the State of California operating an advanced care/hospital facility.

16. Those defendants identified as Does 1 through 100, inclusive, are and were, at all relevant times herein-mentioned, officers, directors, partners, and/or managing agents of some or each of the remaining defendants. Representative Plaintiffs are informed and believe and, on that basis, allege that, at all relevant times herein mentioned, Defendants, and each of them, employed and/or exercised control over the wages, hours, and/or working conditions of the Representative Plaintiffs and Class Members within the State of California.

17. The Representative Plaintiffs are unaware of the true names and capacities of those defendants sued herein as Does 1 through 100, inclusive and, therefore, sue these defendants by such fictitious names. The Representative Plaintiffs will seek leave of court to amend this Complaint when such names are ascertained. The Representative Plaintiffs are informed and believe and, on that basis, allege that each of the fictitiously-named defendants were responsible in some manner for, gave consent to, ratified, and/or authorized the conduct herein alleged and that the damages, as herein alleged, were proximately caused thereby.

18. Representative Plaintiffs are informed and believe and, on that basis, allege that, at all relevant times herein mentioned, each of the defendants was the agent and/or employee of each of the remaining defendants and, in doing the acts herein alleged, was acting within the course and scope of such agency and/or employment.

CLASS ACTION ALLEGATIONS

19. The Representative Plaintiffs bring this action individually and on behalf of all persons similarly situated and proximately damaged by Defendants' conduct including, but not necessarily limited to, the following Plaintiff Class:

"All persons employed by Defendants as non-exempt employees in California on or after February 28, 2016."

20. Defendants' officers and directors are excluded from the Plaintiff Class.

21. This action has been brought and may properly be maintained as a class action under California Code of Civil Procedure § 382 because there is a well-defined community of interest in the litigation and the proposed class is easily ascertainable.

a. Numerosity: A class action is the only available method for the fair and efficient adjudication of this controversy. Insofar as Representative Plaintiffs are informed and believe and, on that basis, allege that there are sufficient Class Members to meet the numerosity requirement, the members of the Plaintiff Class are so numerous that joinder of all members is impractical, if not impossible. Membership in the class will be determined upon analysis of employee and payroll, among other, records maintained by Defendants.

b. Commonality: The Representative Plaintiffs and the Class Members share a community of interests in that there are numerous common questions and issues of fact and law which predominate over any questions and issues solely affecting individual members, including, but not necessarily limited to:

- 1) Whether Defendants violated California Business and Professions Code § 17200, *et seq.* by failing to provide meal and/or rest breaks to Class Members working eligible shifts;
- 2) Whether Defendants violated California Labor Code § 1174 by failing to keep accurate records of employees' hours of work;
- 3) Whether Defendants violated California Labor Code §§ 201-204 by failing to pay wages due and owing at the time that certain Class Members' employment with Defendants terminated;
- 4) Whether Defendants violated California Labor Code § 226 by failing to provide semimonthly itemized statements to Class Members of total hours worked by each and all applicable hourly rates in effect during the pay period; and

1 5) Whether Class Members are entitled to “waiting time”
2 penalties, pursuant to California Labor Code § 203

3 c. Typicality: The Representative Plaintiffs’ claims are typical of the
4 claims of Class Members. The Representative Plaintiffs and Class
5 Members sustained damages arising out of and caused by
6 Defendants’ common course of conduct in violation of law, as
7 alleged herein.

8 d. Adequacy of Representation: The Representative Plaintiffs in this
9 class action are an adequate representative of the Plaintiff Class in
10 that the Representative Plaintiffs’ claims are typical of those of the
11 Plaintiff Class and the Representative Plaintiffs have the same
12 interest in the litigation of this case as the Class Members. The
13 Representative Plaintiffs are committed to vigorous prosecution of
14 this case and have retained competent counsel who are experienced
15 in conducting litigation of this nature. The Representative Plaintiffs
16 are not subject to any individual defenses unique from those
17 conceivably applicable to Class Members as a whole. The
18 Representative Plaintiffs anticipate no management difficulties in
19 this litigation.

20 e. Superiority of Class Action: Since the damages suffered by
21 individual Class Members, while not inconsequential, may be
22 relatively small, the expense and burden of individual litigation by
23 each member makes or may make it impractical for Class Members
24 to seek redress individually for the wrongful conduct alleged herein.
25 Should separate actions be brought, or be required to be brought, by
26 each individual Class Member, the resulting multiplicity of lawsuits
27 would cause undue hardship and expense for the Court and the
28 litigants. The prosecution of separate actions would also create a risk
of inconsistent rulings which might be dispositive of the interests of
other Class Members who are not parties to the adjudications and/or
may substantially impede their ability to adequately protect their
interests.

20 COMMON FACTUAL ALLEGATIONS

21 22. As described herein, for years, Defendants have knowingly failed to adequately
22 compensate those employees within the class definition identified above for all wages earned
23 (including premium wages such as compensation for missed meal and/or rest periods) under the
24 California Labor Code and the applicable IWC Wage Order, thereby enjoying a significant
25 competitive edge over similar companies.

26 23. Defendants have declined to pay these wages, even upon a Class Member’s
27 termination or resignation from employment, in blatant violation of California Labor Code § 201
28 and/or § 202.

1 24. California Labor Code §§ 201 and 202 require Defendants to pay severed
2 employees all wages due and owed to the employee immediately upon discharge or within 72
3 hours of resignation of their positions, in most circumstances. California Labor Code § 203
4 provides that an employer who willfully fails to timely pay such wages must, as a penalty, continue
5 to pay the subject employees' wages until the back wages are paid in full or an action is
6 commenced, and the payment of such penalty shall continue for a period of time up to 30 days.

7 25. Furthermore, despite its knowledge of the Class Members' entitlement to
8 compensation for all hours worked, Defendants violated California Labor Code § 1174(d) by
9 failing to provide or require the use, maintenance, or submission of time records by members of
10 the Plaintiff Class. Defendants also failed to provide Class Members with accurate semimonthly
11 itemized statements of the total number of hours worked by each, and all applicable hourly rates
12 in effect, during the pay period, in violation of California Labor Code § 226. In failing to provide
13 the required documents, Defendants have not only failed to pay its workers the full amount of
14 compensation due, but the company has also, until now, effectively shielded itself from its
15 employees' scrutiny by concealing the magnitude and financial impact of its wrongdoing that such
16 documents might otherwise have led workers to discover.

17 26. Representative Plaintiffs and all persons similarly situated are entitled to unpaid
18 compensation, yet, to date, have not received such compensation despite many of the same having
19 been terminated by and/or resigned from Defendants' employ. More than 30 days have passed
20 since certain Class Members have left Defendants' employ.

21 27. As a consequence of Defendants' willful conduct in not paying former employees'
22 compensation for all hours worked in a prompt and timely manner, certain Class Members are
23 entitled to up to 30 days wages as a penalty under California Labor Code § 203, together with
24 attorneys' fees and costs.

25 28. As a direct and proximate result of Defendants' unlawful conduct, as set forth
26 herein, Class Members have sustained damages, as described above, including compensation for
27 loss of earnings for hours worked on behalf of Defendants, in an amount to be established at trial.
28 As a further direct and proximate result of Defendants' unlawful conduct, as set forth herein,

1 certain Class Members are entitled to recover “waiting time” penalties (pursuant to California
2 Labor Code § 203) and penalties for failure to provide semimonthly statements of hours worked
3 and all applicable hourly rates (pursuant to California Labor Code § 226) in an amount to be
4 established at trial. As a further direct and proximate result of Defendants’ unlawful conduct, as
5 set forth herein, Class Members are also entitled to recover costs and attorneys’ fees pursuant to
6 California Code of Civil Procedure § 1021.5, among other authorities.

7 29. Representative Plaintiffs seek injunctive relief prohibiting Defendants from
8 engaging in the complained-of illegal labor acts and practices in the future. Representative
9 Plaintiffs also seek restitution of costs incurred by Class Members under California’s Unfair
10 Competition Law. Unless enjoined, Defendants’ unlawful conduct will continue unchecked, while
11 Class Members bear the financial brunt of Defendants’ unlawful conduct. As a further direct and
12 proximate result of Defendants’ unlawful conduct, as set forth herein, Class Members are also
13 entitled to recover costs and attorneys’ fees, pursuant to statute.

14 30. Representative Plaintiffs have complied with the procedures for bringing suit (as
15 specified in California Labor Code § 2699.3) necessary to maintain a civil action against
16 Defendants for violation of (and/or recovery under) California’s Private Attorneys General Act.
17 On February 28, 2020, Representative Plaintiffs served and filed a notice upon the Labor and
18 Workforce Development Agency in compliance with Labor Code §§ 2699, *et seq.*

19
20 **FIRST CAUSE OF ACTION**
21 **UNLAWFUL FAILURE TO PAY WAGES**
(California Labor Code §§ 200-204, 510, 558, 1194, 1197 and 1198; IWC Wage Order)

22 31. Each and every allegation of the preceding paragraphs is incorporated in this cause of action with
23 the same force and effect as though fully set forth herein.

24 32. During the limitations period, Class Members performed work for Defendants,
25 oftentimes in excess of eight hours in a workday and/or forty hours in a workweek. The number
26 of hours will be proven at trial.
27
28

1 33. During the limitations period, Defendants refused to compensate Class Members
2 for all of the wages they earned, in violation of the applicable IWC Wage Order and provisions of
3 the California Labor Code.

4 34. At all relevant times, Defendants were aware of, and was under a duty to comply
5 with, the overtime provisions of the California Labor Code including, but not limited to, California
6 Labor Code §§ 510, 1194, and 1198.

7 35. California Labor Code § 510(a) provides, in pertinent part:

8 Any work in excess of eight hours in one workday and any work in
9 excess of 40 hours in any one workweek and the first eight hours
10 worked on the seventh day of work in any one workweek shall be
 compensated at the rate of no less than one and one-half times the
 regular rate of pay for an employee.

11 36. California Labor Code § 1194(a) provides, in pertinent part:

12 Notwithstanding any agreement to work for a lesser wage, any
13 employee receiving less than the legal minimum wage or the legal
14 overtime compensation applicable to the employee is entitled to
15 recover in a civil action the unpaid balance of the full amount of this
 minimum wage or overtime compensation, including interest
 thereon, reasonable attorneys' fees, and costs of suit.

16 37. California Labor Code § 1198 provides, in pertinent part:

17 The maximum hours of work and the standard conditions of labor
18 fixed by the commission shall be the maximum hours of work and
19 the standard conditions of labor for employees. The employment of
20 any employee for longer hours than those fixed by the order or under
21 conditions of labor prohibited by the order is unlawful.

22 38. By refusing to compensate Class Members for minimum wages and/or overtime
23 wages earned, Defendants violated those California Labor Code provisions cited herein as well as
24 the applicable IWC Wage Order.

25 39. Defendants' conduct, as heretofore detailed, represents underpayment of wages
26 pursuant to California Labor Code §§ 218, *et seq.*, 558, 1194, *et seq.*, and 1197, *et seq.*, for which
27 damages and/or penalties are now sought in an amount according to proof.

28 40. As a direct and proximate result of Defendants' unlawful conduct, as set forth
herein, Class Members have sustained damages, including loss of earnings for hours of overtime
worked on behalf of Defendants, in an amount to be established at trial. As a further direct and

1 proximate result of Defendants' unlawful conduct, as set forth herein, Class Members are entitled
2 to recover penalties in amounts to be established at trial, as well as attorneys' fees and costs, and
3 restitution, pursuant to statute.

4
5 **SECOND CAUSE OF ACTION**
6 **FAILURE TO PROVIDE MEAL AND REST PERIODS**
7 **(California Labor Code §§ 226.7 and 512)**

8 41. Each and every allegation of the preceding paragraphs is incorporated in this cause
9 of action with the same force and effect as though fully set forth herein.

10 42. At all relevant times, Defendants were aware of and were under a duty to comply
11 with California Labor Code § 226.7 and §512.

12 43. California Labor Code § 226.7 provides, in pertinent part:

13 (a) No employer shall require any employee to work during any
14 meal or rest period mandated by an applicable order of the Industrial
15 Welfare Commission.

16 (b) If an employer fails to provide an employee a meal period or
17 rest period in accordance with an applicable order of the Industrial
18 Welfare Commission, the employer shall pay the employee one
19 additional hour of pay at the employee's regular rate of
20 compensation for each work day that the meal or rest period is not
21 provided.

22 44. Moreover, California Labor Code § 512(a) provides, in pertinent part:

23 An employer may not employ an employee for a work period of
24 more than five hours per day without providing the employee with
25 a meal period of not less than 30 minutes, except that if the total
26 work period per day of the employee is no more than six hours, the
27 meal period may be waived by mutual consent of both the employer
28 and employee. An employer may not employ an employee for a
work period of more than 10 hours per day without providing the
employee with a second meal period of not less than 30 minutes,
except that if the total hours worked is no more than 12 hours, the
second meal period may be waived by mutual consent of the
employer and the employee only if the first meal period was not
waived.

26 45. Sections 11 and 12, respectively, of the applicable IWC Wage Order mandate that
27 employers provide all applicable meal and/or rest periods to non-exempt (including exempt-
28 misclassified) employees.

1 46. Section 11 of the applicable IWC Wage Order provides:

2 (A) No employer shall employ any person for a work period of more
3 than five (5) hours without a meal period of not less than 30
minutes...

4 (B) An employer may not employ an employee for a work period of
5 more than ten (10) hours per day without providing the
6 employee with a second meal period of not less than 30
minutes...

7 (C) If an employer fails to provide an employee a meal period in
8 accordance with the applicable provisions of this order, the
9 employer shall pay the employee one (1) hour of pay at the
employee's regular rate of compensation for each workday that
the meal period is not provided.

10 47. Moreover, Section 12 of the applicable IWC Wage Order provides:

11 (A) Every employer shall authorize and permit all employees to
12 take rest periods, which insofar as practicable shall be in the middle
13 of each work period. The authorized rest period time shall be based
on the total hours worked daily at the rate of ten (10) minutes net
rest time per four (4) hours or major fraction thereof

14 (B) If an employer fails to provide an employee a rest period in
15 accordance with the applicable provisions of this order, the
16 employer shall pay the employee one (1) hour of pay at the
employee's regular rate of compensation for each workday that the
rest period is not provided.

17 48. By failing to consistently provide uninterrupted thirty-minute meal periods within
18 the first five hours of work each day, a second uninterrupted thirty-minute meal period within the
19 first ten hours of work each day and/or uninterrupted net ten-minute rest periods to Class Members,
20 Defendants violated the California Labor Code and applicable IWC Wage Order provisions.

21 49. Representative Plaintiffs are informed and believe and, on that basis, allege that
22 Defendants have never paid the one hour of compensation to any Class Member due to their
23 violations of the California Labor Code and applicable IWC Wage Order provisions.

24 50. As a direct and proximate result of Defendants' unlawful conduct, as set forth
25 herein, Class Members have sustained damages, including lost compensation resulting from
26 missed meal and/or rest periods, in an amount to be established at trial.
27
28

1 51. As a further direct and proximate result of Defendants' unlawful conduct, as set
2 forth herein, certain Class Members are entitled to recover "waiting time" penalties in amounts to
3 be established at trial, as well as recovery of attorneys' fees and costs, pursuant to statute.

4
5 **THIRD CAUSE OF ACTION**
6 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**
7 **(California Labor Code §§ 226 and 1174)**

8 52. Each and every allegation of the preceding paragraphs is incorporated in this cause
9 of action with the same force and effect as though fully set forth herein.

10 53. California Labor Code § 226(a) provides:

11 Each employer shall semimonthly, or at the time of each payment of
12 wages, furnish each of his or her employees either as a detachable
13 part of the check, draft or voucher paying the employee's wages, or
14 separately when wages are paid by personal check or cash, an
15 itemized wage statement in writing showing: (1) gross wages
16 earned; (2) total number of hours worked by each employee whose
17 compensation is based on an hourly wage; (3) all deductions,
18 provided that all deductions made on written orders of the employee
19 may be aggregated and shown as one item; (4) net wages earned; (5)
20 the inclusive date of the period for which the employee is paid; (6)
21 the name of the employee and his or her social security number; and
22 (7) the name and address of the legal entity which is the employer.

23 54. Moreover, California Labor Code § 226(e) provides:

24 An employee suffering injury as a result of a knowing and
25 intentional failure by an employer to comply with subdivision (a) is
26 entitled to recover the greater of all actual damages or fifty dollars
27 (\$50) for the initial pay period in which a violation occurs and one
28 hundred dollars (\$100) per employee for each violation in a
subsequent pay period, not exceeding an aggregate penalty of four
thousand dollars (\$4,000), and is entitled to an award of costs and
reasonable attorney's fees.

29 55. Finally, California Labor Code § 1174 provides:

30 Every person employing labor in this state shall. . . (d) [k]eep, at a
31 central location in the state...payroll records showing the hours
32 worked daily by and the wages paid to...employees.... These records
33 shall be kept in accordance with rules established for this purpose
34 by the commission, but in any case shall be kept on file for not less
35 than three years.

1 56. Defendants have failed to provide timely, accurate itemized wage statements to the
2 Class Members in accordance with California Labor Code § 226. Representative Plaintiffs are
3 informed and believe and, on that basis, allege that none of the statements provided by Defendants
4 accurately reflected actual gross wages earned, net wages earned, or the appropriate deductions
5 for Class Members.

6 57. As a direct and proximate result of Defendants' unlawful conduct, as set forth
7 herein, the Class Members are entitled to penalties in an amount to be established at trial and are
8 entitled to recover attorneys' fees and costs of suit.

9
10 **FOURTH CAUSE OF ACTION**
11 **FAILURE TO PAY WAGES ON TERMINATION**
 (California Labor Code § 203)

12 58. Each and every allegation of the preceding paragraphs is incorporated in this cause
13 of action with the same force and effect as though fully set forth herein.

14 59. California Labor Code § 203 provides that:

15 If an employer willfully fails to pay, without abatement or reduction, in
16 accordance with Sections 201, 201.5, 202, and 205.5, any wages of an
17 employee who is discharged or who quits, the wages of the employee shall
18 continue as a penalty from the due date thereof at the same rate until paid or
19 until an action therefor is commenced; but the wages shall not continue for
20 more than 30 days.

21 60. Numerous Class Members were employed by Defendants during the class period
22 and were thereafter involuntarily terminated or resigned from their positions yet were not paid all
23 wages due upon said termination or within 72 hours of said resignation of employment therefrom.
24 This non-payment was the direct and proximate result of a willful refusal to do so by Defendants.

25 61. More than 30 days have elapsed since certain Class Members were involuntarily
26 terminated or voluntarily resigned from Defendants' employ.

27 62. As a direct and proximate result of Defendants' willful conduct in failing to pay
28 said Class Members for all hours worked, affected Class Members are entitled to recover "waiting

1 time” penalties of up to thirty days’ wages pursuant to California Labor Code § 203 in an amount
2 to be established at trial, and attorneys’ fees and costs.

3
4 **FIFTH CAUSE OF ACTION**
5 **UNFAIR BUSINESS PRACTICES UNDER THE UNFAIR COMPETITION ACT**
6 **(California Business & Professions Code §§ 17200-17208)**

7 63. Each and every allegation of the preceding paragraphs is incorporated in this cause
8 of action with the same force and effect as though fully set forth herein.

9 64. Representative Plaintiffs further bring this cause of action seeking equitable and
10 statutory relief to stop Defendants’ misconduct, as complained of herein, and to seek restitution of
11 the amounts Defendants acquired through the unfair, unlawful, and fraudulent business practices
12 described herein.

13 65. Defendants’ knowing conduct, as alleged herein, constitutes an unlawful and/or
14 fraudulent business practice, as set forth in California Business & Professions Code §§ 17200-
15 17208. Specifically, Defendants conducted business activities while failing to comply with the
16 legal mandates cited herein.

17 66. Defendants have clearly established a policy of accepting a certain amount of
18 collateral damage, as represented by the damages and penalties to Class Members herein alleged,
19 as incidental to their business operations, rather than accept the alternative costs of full compliance
20 with fair, lawful, and honest business practices, ordinarily borne by their responsible competitors
21 and as set forth in legislation and the judicial record.

22 **SIXTH CAUSE OF ACTION**
23 **PRIVATE ATTORNEYS GENERAL ACT CLAIM**
24 **(California Labor Code §§ 2699)**

25 67. Each and every allegation of the preceding paragraphs is incorporated in this cause of action with
26 the same force and effect as though fully set forth herein.

27 68. California Labor Code § 2699(a) provides, in pertinent part:

28 Notwithstanding any other provision of the law, any provision of this code
that provides for a civil penalty to be assessed and collected by the Labor

1 and Workforce Development Agency or any of its departments, divisions,
2 commissions, boards, agencies, or employees, for a violation of this code,
3 may, as an alternative, be recovered through a civil action brought by an
aggrieved employee on behalf of himself or herself and other current or
former employees. . .

4 69. Representative Plaintiffs and each and every other Class Member working for
5 Defendants within one year of Representative Plaintiffs' exhaustion of its administrative
6 prerequisites under the California Private Attorneys General Act are "aggrieved employees," as
7 defined by California Labor Code § 2699(c), because they were employed by Defendants and were
8 among the employees against whom violations of law were committed.

9 70. Representative Plaintiffs have met all of the requirements set forth in California
10 Labor Code § 2699.3 necessary to maintain a civil action against Defendants for violations of
11 (and/or recovery under) California's Private Attorneys General Act.

12 71. Representative Plaintiffs bring this action individually and on behalf of all
13 Aggrieved Employees alleging violations of the California Labor Code provisions cited in the
14 preceding paragraphs.

15 72. As a direct and proximate result of Defendants' unlawful conduct, as set forth
16 herein, Representative Plaintiffs and Aggrieved Employees are entitled to recover penalties as
17 provided by California Labor Code § 2699, in an amount to be established at trial, as well as costs
18 and attorneys' fees, pursuant to statute.

19
20 **RELIEF SOUGHT**

21 **WHEREFORE, the Representative Plaintiffs,** individually and on behalf of the
22 proposed Plaintiff Class, pray for judgment and the following specific relief against Defendants,
23 and each of them, jointly and separately, as follows:

24 1. That the Court declare, adjudge, and decree that this action is a proper class action
25 and certify the proposed class and/or any other appropriate subclasses under California Code of
26 Civil Procedure § 382;

2. That the Court declare, adjudge, and decree that Defendants willfully violated their legal duties to pay all wages due under the California Labor Code and the applicable California Industrial Welfare Commission Wage Order;

3. That the Court make an award to Class Members of one hour of pay at each employee's regular rate of compensation for each workday that a meal period was not provided;

4. That the Court make an award to Class Members of one hour of pay at each employee's regular rate of compensation for each workday that a rest period was not provided;

5. That the Court order Defendants to pay restitution to Class Members due to Defendants' unlawful activities, pursuant to California Business and Professions Code §§ 17200-17208;

6. That the Court further enjoin Defendants, ordering them to cease and desist from unlawful activities in violation of California Business and Professions Code § 17200, *et seq.*;

7. For interest on the amount of any and all economic losses, at the prevailing legal rate;

8. That the Court make an award to Class Members of penalties, pursuant to California Labor Code §§ 203, 226, 558, 1174.5 and/or liquidated damages pursuant to § 1194.2, in an amount to be proven at trial;

9. That the Court declare, adjudge, and decree that this action is a proper representative action pursuant to California Labor Code § 2699;

10. That the Court make an award of civil penalties for violations of the California Labor Code, pursuant to California Labor Code § 2699;

11. For reasonable attorneys' fees, pursuant to California Code of Civil Procedure § 1021.5 and Labor Code § 218.5;

12. For costs of suit and any and all such other relief as the Court deems just and proper;

13. For all other Orders, findings and determinations identified and sought in this Complaint.

JURY DEMAND

Representative Plaintiffs, individually and on behalf of the Plaintiff Class and Aggrieved Employees, hereby demand a trial by jury.

Dated: May 7, 2020

SCOTT COLE & ASSOCIATES, APC

By: 

Laura Van Note, Esq.
Attorneys for Representative Plaintiffs,
the Plaintiff Class, and Aggrieved Employees

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